

**RECEIVED****IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MINNESOTA**

JUN 08 2015

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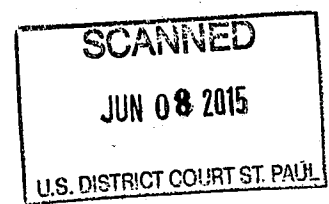
IN THE MATTER OF THE )  
 TAX INDENTEDNESS OF )  
 SANTANA FOOD MARKET, INC. )  
 601 University Ave. SE )  
 Minneapolis, MN 55414 )  
 )  
 )

No. 15-mj-450 (TNL)

**APPLICATION OF THE UNITED STATES  
TO ENTER PREMISES TO EFFECT LEVY**

The United States of America, on the basis of the attached affidavit of Revenue Officer Crystal Hosfield, respectfully applies to the Court, pursuant to 26 U.S.C. sections 6331 and 7402(a), for an order authorizing Revenue Officer Crystal Hosfield and/or other employees, as designated by the Internal Revenue Service, who may be escorted by employees of the U.S. Treasury Inspector General for Tax Administration, to enter the premises located at 601 University Avenue Southeast; Minneapolis, MN 55411, for the purpose of seizing the property of Santana Food Market, Inc., as may be found therein, which is subject to levy by the United States in satisfaction of the outstanding federal taxes now due and owing by Santana Food Market, Inc., together with interest and costs as allowed by law.

Jurisdiction is conferred upon federal district courts to make and issue in civil actions, writs and orders of injunction and such other orders and processes, and to render such judgments and decrees as may be necessary or appropriate for the enforcement of the internal revenue laws. 26 U.S.C. § 7402(a). A district court is vested with jurisdiction



under 26 U.S.C. § 7402(a) to enforce levies of the Internal Revenue Service by summary, ex parte proceedings. *Matter of Carlson*, 580 F.2d 1365 (10th Cir. 1978); *United States v. First National City Bank*, 568 F.2d 853 (2d Cir. 1977); *United States v. Mellon Bank, N.A.*, 521 F.2d 708 (3d Cir. 1975)

Where a taxpayer refuses to pay his tax liabilities after notice and demand, a District Court has jurisdiction to issue an entry order pursuant to 26 U.S.C. § 7402(a) allowing other Service to enter premises in order to collect delinquent taxes. 26 U.S.C. § 7402(a); *Marshall v. Barlow's Inc.*, 436 U.S. 307, 322, n. 19, 98 S.Ct. 1816 (1978). An order of entry is to be issued upon application with supporting affidavit showing cause to enter, search for, and levy upon personal property in aid of summary collection of assessed and unpaid tax. *United States v. Shriver*, 645 F.2d 221 (4th Cir. 1981). Issuance of the order authorizing entry is to take place in a summary, *ex parte*, proceeding and is not to be converted into an adversary proceeding. *Matter of Campbell*, 761 F.2d 1181, 1186 (6th Cir. 1978); *United States v. Condo*, 782 F.2d 1502, 1504-06 (9th Cir. 1986); *United States v. Asay, Jr.*, 614 F.2d 655, 662 (9th Cir. 1980).

Submitted in support of this application is the affidavit of Revenue Officer Crystal Hosfield. The affidavit establishes that assessments of tax, penalty, and interest for: (1) the 941 tax periods ending 9/30/2003, 12/31/2003, 9/30/2004, 12/31/2004, 3/31/2005, 6/30/2005, 9/30/2005, 12/31/2005, 3/31/2006, 12/31/2009, 9/30/2010, 12/31/2010, 3/31/2011, 6/30/2011, 9/30/2011, 12/31/2011, 6/30/2012, 9/30/2012, 3/31/2013, 12/31/2013, and 3/31/2014; (2) 1120 period ending 12/31/2013; and (3) 940 periods ending 12/31/2011 and 12/31/2012 were made against Santana Food Market, Inc. in the

total amount of \$76,805.74. Notices and demand were made for these assessments on 5/23/2006, 11/7/2006, 11/29/2006, 5/17/2012, 7/23/2012, 7/27/2012, 10/5/2012, 1/7/2015, and 2/17/2015, pursuant to sections 6201, 6203, and 6303 of the Internal Revenue Code. By reason of the assessments, a lien has arisen on all property and rights to property of Santana Food Market, Inc. as prescribed by sections 6321 and 6322 of the Internal Revenue Code.

Notice of the federal tax liens were filed with the Minnesota Secretary of State on 6/9/2006, 12/8/2006, 6/1/2012, 8/3/2012, 8/17/2012, 10/26/2012, 1/23/2015 and 3/6/2015. By reason of the taxpayer's neglect and failure to pay such tax, penalty, and interest within 10 days after notice and demand, a levy may be made under 26 U.S.C. 1331(d). A notice of intention to levy, as required by 26 U.S.C. § 6331(d), was provided to the taxpayer by certified mail on 5/23/2006, 11/7/2006, 11/28/2006, 5/17/2012, 7/23/2012, 8/27/2012, 10/5/2012, 1/8/2015, and 2/17/2015 which provided the taxpayer with notice of a right to a hearing.

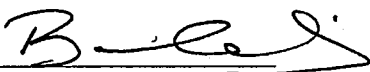
Revenue Officer Hosfield viewed the premises on March 20, 2015 and May 4, 2015, and observed the cash register, all perishable inventories present in store showroom and tobacco products as well as a closed door that stated it was not open to the public. On June 5, 2015, Revenue Officer Hosfield again viewed the business from a public sidewalk and was able to see that the business was in full operation and appeared to be stocked with inventory. On May 4, 2015, Revenue Officer Hosfield attempted to obtain consent from the owner of the building, Jamal Hassuneh. Mr. Hassuneh, however, was not forthcoming with his identity and therefore consent was not obtained.

WHEREFORE, the United States prays that an order be issued permitting Revenue Officer Crystal Hosfield and/or other employees, as designated by the Internal Revenue Service, who may be escorted by employees of the U.S. Treasury Inspector General for Tax Administration, to enter the premises operated as Santana's, located at 601 University Avenue Southeast; Minneapolis, MN 55411, for the purpose of seizing property of Santana Food Market, Inc., as may be found therein for the purpose of satisfying Santana Food Market, Inc.'s outstanding tax liabilities.

Dated: June 5, 2015

ANDREW M. LUGER  
United States Attorney

By:

  
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